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Attorneys for Defendants and Third Party Plaintiffs

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

CALOGERO DIMARIA, et al.

Plaintiffs.

vs.

ANTHONY FASULO, et al.,

Defendants.

ANTHONY FASULO, et al.,

Third Party Plaintiffs

vs.

ZURICH AMERICAN INSURANCE CO. and FEDERAL
INSURANCE COMPANY (Div. of the CHUBB
CORPORATION),

Third Party Defendants.

)
) 07 CV 797 (ERK)(RML)

)
) STIPULATION OF
) DISMISSAL

IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, the
respective attorneys of record for Defendants/Third Party Plaintiffs and Third Party Defendants,
pursuant to Fed. R. Civ. P. 41(a), that:

1) All claims asserted by Defendants/Third Party Plaintiffs against Third Party Defendants in this matter shall be and hereby are dismissed without prejudice.

2) Third Party Defendant Federal Insurance Company ("Federal") has agreed to make available to Defendants/Third Party Plaintiffs coverage for this action pursuant to the terms and conditions of its policy and reserving all rights.

3) Defendants/Third Party Plaintiffs hereby reserve their rights with respect to any subsequent denial of coverage by Federal.

4) With respect to any claims for coverage for the transactions and occurrences that gave rise to the within action by Defendants/Third Party Plaintiffs against Third Party Defendant Zurich American Insurance Co., the statute of limitations is hereby tolled as of February 4, 2009 until four years three months and twenty eight days from the date that Federal refuses to continue providing a defense on behalf of Third Party Defendants as provided for in paragraph 2 above.

5) Each party shall bear its own fees and costs.

Dated: New York, New York
October 1, 2009

GORLICK, KRAVITZ & LISTHAUS, P.C.

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By: /s/
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Zurich American Insurance

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SO ORDERED:

Hon. Edward R. Korman, U.S.D.J.